



4310-22-P

## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Land Management**

**[14XL1109AF.LLWYD04000.L12200000.MD0000]**

### **Notice of Proposed Supplementary Rules for the Killpecker Sand Dunes**

#### **Recreational Site, Wyoming**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Proposed Supplementary Rules.

**SUMMARY:** The Bureau of Land Management (BLM) is proposing supplementary rules for the Killpecker Sand Dunes Recreational Site located within the Greater Sand Dunes Area of Critical Environmental Concern (ACEC) Eastern Portion managed by the Rock Springs Field Office (RSFO) in Rock Springs, Wyoming. This action is necessary for the public health and safety of visitors in order to provide high quality and unique off-highway vehicle (OHV) activities in the open play sand dunes area. The proposed supplementary rules are intended to allow the BLM to more effectively manage a safe environment for OHV recreation by providing better visual identification of OHVs, implementing a speed limit, and prohibiting the possession and use of glass containers in the OHV recreation area.

**DATES:** Interested parties may submit written comments regarding the proposed supplementary rules until [INSERT DATE 60 DAYS AFTER PUBLICATION].

**ADDRESSES:** You may submit comments by any of the following methods:

Email: blm\_wy\_rsfo\_sand\_dunes@blm.gov with “Supplemental Rules” in the subject line; Fax: (307) 352-0329; or Mail or Hand Delivery: BLM Rock Springs Field Office, Attn: Supplemental Rules, 280 Highway 191 North, Rock Springs, WY 82901.

**FOR FURTHER INFORMATION CONTACT:** Georgia Foster, RSFO Outdoor Recreation Planner, (307) 352-0327. Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to speak with Georgia Foster during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:**

**I. Public Comment Procedures**

Comments may be mailed, emailed, or hand-delivered to Georgia Foster at the addresses listed above (See “ADDRESSES”). Written comments on the proposed supplementary rules should be specific, confined to issues pertinent to the proposed rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal that the commenter is addressing. The BLM is not obligated to consider, or include in the administrative record for the final supplementary rules, comments delivered to an address other than those listed above (See “ADDRESSES”) or comments that the BLM receives after the close of the comment period (See “DATES”), unless they are postmarked or electronically dated before the deadline.

Comments, including names, street addresses, and other contact information for respondents, will be available for public review at the RSFO listed in “ADDRESSES”

during regular business hours (8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays). Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

## **II. Background**

Conditions of use for OHVs are defined under 43 CFR subpart 8341. Rules of conduct on public land are defined under 43 CFR subpart 8365. The BLM is proposing these supplementary rules in accordance with 43 CFR 8365.1-6, which authorizes state directors to establish supplementary rules for the protection of persons, property, and public lands and resources.

The Killpecker Sand Dunes Recreational Site is managed in accordance with the 2006 Record of Decision and Jack Morrow Hills Coordinated Activity Plan/Green River Resource Management Plan Amendment, which designates 10,020 acres as open to OHV travel on the active sand dunes. These proposed supplementary rules would implement key decisions in the March 12, 2013 Killpecker Sand Dunes Recreation Site Facility Improvement Environmental Assessment (WY040-EA13-098) Decision Record, which is in compliance with the 2006 Record of Decision.

## **III. Discussion of Proposed Supplementary Rules**

The proposed supplementary rules would apply to public lands administered by the BLM RSFO. The active sand dunes within the Killpecker Sand Dunes Recreational Site

consist of approximately 10,500 acres of public lands within Sweetwater County, Wyoming in the following described area:

Sixth Principal Meridian, Wyoming

T.23 N., R.103 W., sec.16, SE1/4SW1/4 and SW1/4SE1/4.

The proposed supplementary rules would provide for increased public safety while recreating at the Killpecker Sand Dunes Recreational Site. The rules would require safety flags on all vehicles in the OHV open area, prohibit speeds in excess of 15 miles per hour within 500 feet of access roads, and prohibit the use of glass containers within the OHV recreation area. These rules would allow for better visibility of OHVs, reduce traffic accidents along the access roads leading into the OHV area, and would help prevent injuries throughout the sand dunes.

#### **IV. Procedural Matters**

##### Executive Order 12866, Regulatory Planning and Review

These proposed supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. They would not have an effect of \$100 million or more on the economy and will not adversely affect, in a material way, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. They would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. They would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues. They would not affect legal commercial activity, but merely

impose limitations on certain recreational activities on certain public lands to protect natural resources and human health and safety.

#### Clarity of the Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed supplementary rules clearly stated? (2) Do the proposed supplementary rules contain technical language or jargon that interferes with their clarity? (3) Does the format of the proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? (4) Would the proposed supplementary rules be easier to understand if they were divided into more (but shorter) sections? (5) Is the description of the proposed supplementary rules in the SUPPLEMENTARY INFORMATION section of this preamble helpful to your understanding of the proposed supplementary rules? How could this description be more helpful in making the proposed supplementary rules easier to understand?

Please send any comments you have on the clarity of the supplementary rules to the address specified in the ADDRESSES section.

#### National Environmental Policy Act

The proposed supplementary rules would implement key decisions in the March 12, 2013 Killpecker Sand Dunes Recreation Site Facility Improvement Environmental Assessment (WY040-EA13-098) Decision Record. This decision record is in compliance with the

actions identified for this area in the 2006 Record of Decision and Jack Morrow Hills Coordinated Activity Plan/Green River Resource Management Plan Amendment.

#### Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601-612, (RFA) to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if rules would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The proposed supplementary rules do not pertain specifically to commercial or governmental entities of any size, but contain rules to protect the health and safety of individuals, property, and resources on the public lands. Therefore, the BLM has determined under the RFA that these proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

#### Small Business Regulatory Enforcement Fairness Act

These proposed supplementary rules do not constitute a “major rule” as defined at 5 U.S.C. 804(2). These proposed supplementary rules would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and human health and safety. The proposed supplementary rules have no effect on business, commercial, or industrial use of the public lands.

#### Unfunded Mandates Reform Act

These proposed supplementary rules would not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than \$100 million per year; nor do these proposed supplementary rules have a significant or unique effect on state, local, or tribal governments or the private sector. The proposed supplementary rules would not

require anything of state, local, or tribal governments. The proposed supplementary rules would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501-1571).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

The proposed supplementary rules do not constitute a government action capable of interfering with constitutionally protected property rights. The proposed supplementary rules do not address property rights in any form and do not cause the impairment of constitutionally protected property rights. Therefore, the BLM has determined that the proposed supplementary rules would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The proposed supplementary rules would not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The proposed supplementary rules would apply only in Wyoming and would not address jurisdictional issues involving the Wyoming State government. Therefore, in accordance with Executive Order 13132, the BLM has determined that these proposed supplementary rules would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM Wyoming State Director has determined that these proposed supplementary rules would not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these proposed supplementary rules do not include policies that have tribal implications and would have no bearing on trust lands or on lands for which title is held in fee status by Indian tribes or U.S. Government owned lands managed by the Bureau of Indian Affairs.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that the proposed supplementary rules would not impede facilitating cooperative conservation; would take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; would properly accommodate local participation in the Federal decision-making process; and would provide that the programs, projects, and activities are consistent with protecting public health and safety.

Information Quality Act

In developing these proposed supplementary rules, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106-554).

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use



These proposed supplementary rules do not comprise a significant energy action. The rules would not have an adverse effect on energy supply, production, or consumption and have no connection with energy policy.

#### Paperwork Reduction Act

These proposed supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3521.

### **PROPOSED SUPPLEMENTARY RULES**

#### Author

The principal author of these supplementary rules is Georgia Foster, Outdoor Recreation Planner, BLM Wyoming, High Desert District, RSFO, Rock Springs, Wyoming.

#### Definitions

Off Highway Vehicle (OHV) means any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain.

Vehicle means any motorized transportation conveyance designed and licensed for use on roadways, such as an automobile, bus, or truck, and any motorized conveyance originally equipped with safety belts. This includes two-wheeled motorcycles.

#### Prohibited Acts

1. You must not operate any vehicle within the Killpecker Sand Dunes Recreation Site without an appropriate safety flag. All vehicles must be equipped with a whip mast and a 6 inch x 12 inch red or orange flag. A whip mast is any pole, rod or antenna mounted on the vehicle that extends at least eight feet from the surface of the ground to the mast tip. It must stand upright when the vehicle is stationary. Masts

- must be securely mounted on the vehicle. Safety flags must be attached within 10 inches of the tip of the whip mast with other flags mounted below the safety flag or on another whip. Flags may be of pennant, triangle, square or rectangular shape
2. You must not operate a vehicle in excess of 15 miles per hour on public lands within 500 feet of access roads within the Killpecker Sand Dunes Recreation Site.
  3. You must not possess or use any glass container within the Killpecker Sand Dunes Recreation Site.

#### Exceptions

The following persons are exempt from these supplementary rules: any Federal, state, local, and/or military employees acting within the scope of their official duties; members of any organized rescue or fire fighting forces acting within the scope of their official duties; and persons who are expressly authorized or otherwise officially approved by the BLM.

### Penalties

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0-7, any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to enhanced fines provided for by 18 U.S.C. 3571.

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Donald A. Simpson  
Bureau of Land Management  
State Director, Wyoming

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